

REMARKS

The Office has required an Election of Species as follows:

Species 1, Claims 3, 24, Formula 1;  
Species 2, Claims 3, 24, Formula 2;  
Species 3, Claims 3, 24, Formula 3;  
Species 4, Claims 3, 24, Formula 4;  
Species 5, Claims 4, 25, Formula 5 (not labeled);  
Species 6, Claims 4, 25, Formula 6 (not labeled);  
Species 7, Claims 4, 25, Formula 7;  
Species 8, Claims 4, 25, Formula 8;  
Species 9, Claims 4, 25, Formula 9;  
Species 10, Claims 4, 25, Formula 10;  
Species 11, Claims 4, 25, Formula 11;  
Species 12, Claims 4, 25, Formula 12; and  
Species 13, Claims 4, 25, Formula 13.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

In addition, Applicants traverse that Requirement for Election on the grounds that the Office has not applied the same standard of unity of invention as the International Searching Authority (see copy of the International Preliminary Examination Report appended herewith). The Authority did not take the position that unity of invention was lacking in the International application and examined all claims together.

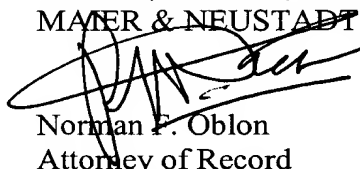
Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. In fact, the International Searching Authority has searched all of the claims together.

Finally, with respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Election of Species. Withdrawal of the Requirement for Election of Species is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited

OBLON, SPIVAK, McCLELLAND,  
MAYER & NEUSTADT, P.C.



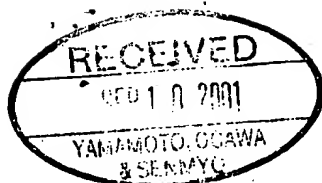
Norman F. Oblon  
Attorney of Record  
Registration No.: 24,618

Rohitha M. Jayasuriya  
Registration No. 50,385

Customer Number

**22850**

PHONE: (703) 413-3000  
FAX: (703) 413-2220



## PATENT COOPERATION TREATY

## PCT

**NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

(PCT Rule 72.2)

From the INTERNATIONAL BUREAU

To:

SENMYO, Kenji  
Torimoto Kogyo Building  
38, Kanda-Higashimatsushitacho  
Chiyoda-ku  
Tokyo 101-0042  
JAPON

Date of mailing (day/month/year) 27 August 2001 (27.08.01)	<b>IMPORTANT NOTIFICATION</b>
Applicant's or agent's file reference AB-150	
International application No. PCT/JP00/00323	International filing date (day/month/year) 24 January 2000 (24.01.00)
Applicant ASAHI GLASS COMPANY, LIMITED et al	

**1. Transmittal of the translation to the applicant.**

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

**2. Transmittal of the copy of the translation to the elected Offices.**

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

EP,CA,CN,US

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

JP

**3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).**

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. (41-22) 740.14.35	Authorized officer  Eliott PERETTI  Telephone No. (41-22) 338.83.38
--	---

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference AB-150	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/JP00/00323	International filing date (day/month/year) 24 January 2000 (24.01.00)	Priority date (day/month/year) 25 January 1999 (25.01.99)
International Patent Classification (IPC) or national classification and IPC H01M 8/02, 8/10		
Applicant ASAHI GLASS COMPANY, LIMITED		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 21 August 2000 (21.08.00)	Date of completion of this report 25 April 2001 (25.04.2001)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP00/00323

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☐ the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the claims:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the drawings:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP 00/00323

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims	1-10	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO

**2. Citations and explanations**

Document 1: JP, 9-320611, A (Asahi Glass Co., Ltd.), 12 December 1997 (12.12.97); claims and paragraphs [0014]-[0015], [0021], [0026], [0028] and [0034]

Document 2: JP, 9-265996, A (Mazda Motor Corporation), 7 October 1997 (07.10.97); claims and paragraphs [0013]-[0015]

Document 3: JP, 8-255619, A (Matsushita Electric Industrial Co., Ltd.), 1 October 1996 (01.10.96); claims and paragraphs [0010]-[0011]

Claims 1-6 and 8-10

The inventions disclosed in Claims 1-6 and 8-10 do not involve an inventive step in the light of Documents 1 and 2, cited in the international search report.

The inventions in Documents 1 and 2 both relate to solid polymer type fuel cells; therefore, a person skilled in the art could easily conceive of using the feature of adhering a solution of a fluoropolymer which has substantially no ion-exchangeable groups and is soluble in a solvent, as disclosed in Document 1, for water-repellent treatment of the carbon cloth in a solid polymer type fuel cell disclosed in Document 2.

## Claim 7

The invention described in Claim 7 does not involve an inventive step in the light of Documents 1, 2 and 3, cited in the international search report.

The inventions of Documents 1, 2 and 3 all relate to solid polymer type fuel cells; therefore, in using the feature of adhering a solution of a fluoropolymer which has substantially no ion-exchangeable groups and is soluble in a solvent, as disclosed in Document 1, for water-repellent treatment of the carbon cloth in a solid polymer type fuel cell disclosed in Document 2, a person skilled in the art could easily conceive of also making the voidage of the gas diffusion layer 50-90% as disclosed in Document 3, considering ease of gas diffusion after rendering the gas diffusion layer water-repellent.